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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 1206013412-2517-02]

RIN 0648-XC467

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2013 Accountability Measures for Gulf of Mexico Commercial
Greater Amberjack

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; accountability measures.

SUMMARY: NMFS implements accountability measures (AMs) for
commercial greater amberjack in the Gulf of Mexico (Gulf) reef
fish fishery for the 2013 fishing year through this temporary
final rule. This rule reduces the Gulf greater amberjack 2013
commercial annual catch target (ACT) (equal to the commercial
quota) to 338,157 lb (153,385 kg) and reduces the 2013
commercial annual catch limit (ACL) to 410,157 lb (186,044 kg),
based on the 2012 commercial ACL overage. These actions are
necessary to reduce overfishing of the Gulf greater amberjack
resource.

DATES: This rule is effective [insert date of publication in

the Federal Register], through December 31, 2013.

ADDRESSES: Electronic copies of Amendment 35 to the Fishery Management Plan for the Reef Fish Resources of the Gulf (FMP), which includes an environmental assessment, an initial regulatory flexibility analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov/sf/GrouperSnapperandReefFish.htm>.

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SUPPLEMENTARY INFORMATION: NMFS manages the reef fish fishery of the Gulf, which includes greater amberjack, under the FMP. The Gulf of Mexico Fishery Management Council (Council) prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All greater amberjack weights discussed in this temporary rule are in round weight.

Background

The 2006 reauthorization of the Magnuson-Stevens Act established new requirements including ACLs and AMs to end overfishing and prevent overfishing from occurring. AMs are management controls to prevent ACLs from being exceeded, and correct or mitigate overages of the ACL if they occur. Section

303(a)(15) of the Magnuson-Stevens Act mandates the establishment of ACLs at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

On November 13, 2012, NMFS published a final rule for Amendment 35 (77 FR 67574). That final rule established the Gulf greater amberjack stock ACL equal to the greater amberjack stock allowable biological catch (ABC) at 1,780,000 lb (807,394 kg), with the greater amberjack stock ACT at 1,539,000 lb (698,079 kg) based on the ACT Control Rule developed in the Generic Annual Catch Limits/Accountability Measures Amendment (Generic ACL Amendment) (76 FR 82044, December 29, 2011).

Sector allocations were established in Amendment 30A to the FMP (73 FR 38139, July 3, 2008) with 27 percent of the ACL allocated to the commercial sector and 73 percent of the ACL allocated to the recreational sector. Based on these allocations, the final rule for Amendment 35 established a greater amberjack commercial ACL of 481,000 lb (218,178 kg) and the commercial ACT (equivalent to the commercial quota) of 409,000 lb (185,519 kg). The commercial ACT is set 15 percent below the ACL to account for management uncertainty.

Accountability measures for Gulf greater amberjack were also revised by the final rule for Amendment 35. In accordance

with regulations at 50 CFR 622.49(a)(1)(i), when the commercial ACT (commercial quota) is reached, or projected to be reached, the Assistant Administrator for Fisheries, NOAA, (AA), will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. If despite such closure, commercial landings exceed the commercial ACL, then during the following fishing year, both the commercial ACT (commercial quota) and the commercial ACL will be reduced by the amount of the prior year's commercial ACL overage.

Additionally, the final rule for Amendment 35 established a commercial trip limit for greater amberjack of 2,000 lb (907 kg). This trip limit is applicable until the commercial ACT (commercial quota) is reached or projected to be reached during a fishing year and the commercial sector is closed.

Management Measures Contained in this Temporary Rule

In 2012, the commercial sector of greater amberjack was closed on March 1, when the adjusted commercial quota of 237,438 (107,700 kg), based on the 2011 quota overage, was determined to be reached. Finalized 2012 commercial landings data indicated the adjusted 2012 commercial quota of 237,438 lb (107,700 kg) was exceeded by 29.8 percent, or 70,843 lb (32,134 kg). Therefore, the reduced 2013 commercial ACT (commercial quota) for Gulf greater amberjack is 338,157 lb (153,385 kg) (i.e.,

409,000-lb (185,519-kg) commercial ACT minus the overage of 70,843 lb (32,134 kg)). The reduced 2013 commercial ACL for Gulf greater amberjack is 410,157 lb (186,044 kg) (i.e., 481,000-lb (218,178-kg) commercial ACL minus the overage of 70,843 lb (32,134 kg)).

The 2014 commercial ACT (commercial quota) for greater amberjack will return to 409,000 lb (185,519 kg), as specified at 50 CFR 622.42(a)(1)(v), and the commercial ACL for greater amberjack will return to 481,000 lb (218,178 kg), as specified in 50 CFR 622.49(a)(1)(i)(C), unless AMs are implemented due to a commercial ACL overage, or the Council takes subsequent regulatory action to adjust the commercial ACT (commercial quota) and commercial ACL.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of the Gulf greater amberjack component of the Gulf reef fish fishery and is consistent with the Magnuson-Stevens Act, the FMP, and other applicable laws.

The temporary rule has been determined to be not significant for purposes of Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued

without opportunity for prior notice and comment.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. Such procedures are unnecessary because the AMs established by Amendment 35 and located at 50 CFR 622.49(a)(1)(i) authorize the AA to file a notification with the Office of the Federal Register to reduce the commercial ACT (commercial quota) and commercial ACL the following fishing year when the commercial ACL is exceeded. The proposed rule for Amendment 35 (77 FR 42476, July 19, 2012) that implemented these AMs was already subject to notice and comment and all that remains is to notify the public of the 2013 commercial ACT (commercial quota) and commercial ACL for Gulf greater amberjack.

Additionally, prior notice and opportunity for public comment would be contrary to the public interest. Given the ability of the commercial sector to rapidly harvest fishery resources, there is a need to immediately implement the reduced commercial ACT (commercial quota) and commercial ACL for the 2013 fishing year. Taking time to provide prior notice and opportunity for public comment creates a higher likelihood of the reduced commercial ACT (commercial quota) and commercial ACL being exceeded.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: February 22, 2013.

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